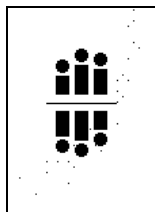


Center for Information, Technology & Society



Furthering Advances in Communication, Computers, and
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Improved Education, Health, and Humanity

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Response to FCC Docket No. 99-360

"Public Interest Obligations TV Broadcast Licensees"

By: The Center for Information, Technology & Society (CITS)

Date: March 20, 2000

For the record, CITS is a 501(c)3 charitable nonprofit dedicated to improving all forms of communications that better society, culture, and knowledge.

Introduction: CITS was originally the Program for Information, Technology & Society at MIT. In 1986 the Center became a freestanding nonprofit. In 1996, the Director, Dr. W. Curtiss Priest, was recognized by Newsweek as "one of the 50 people who matter most on the Internet." The Center has worked closely with government agencies, including the U.S. Department of Education, in developing an Internet world that is informative and constructive for students in K-12 education. With the Corporation for Public Broadcasting, the Center has developed a web-based volunteer organization site. Links are provided at the Center's web site CyberTrails.Org

Preface: CITS recognizes that this country is witnessing a degree of privatization that is unparalleled in its history.

That this privatization has produced many efficiencies is also acknowledged.

Nonetheless, this organization does not believe that self-serving corporate interests will provide the healthy world for its citizens nor its children. Thus, it is firmly in support of a vigorous role for the FCC to champion the "public good."

That there are significant political forces that would dissolve the FCC also cannot be ignored. Such dreams that this entity should disappear are born out of the Friedman Chicago school of economics and elsewhere.

It is imperative that the FCC, including Chairman Kennard and the commissioners, resist the temptation to turn all solutions over to private markets.

This petitioner recognizes the issues raised, in particular by Commissioner Harold Furchgott-Roth. In response to those issues, this respondent asserts that the Communications Act of 1934 clearly states:

Nothing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience and necessity.

Commissioner Furchgott-Roth raises the excellent question as to how far this statutory language is to guide the FCC.

In the considered opinion of this respondent, we believe that the world of 1934 had just witnessed the "go-go" years of the 1920's and the domination of various industries such as telecommunications and railroads by the Bell Telephone Company and Mr. Morgan's banking interests.

Whether the "go-go" years of the '90s will transpire into the economic conditions that accompanied the Act of 1934 is yet to be seen. Regardless, there is a level of corporate dominated telecommunications that **must** be countervailed by the FCC.

The "free market" bandwagon of this era must be balanced by the thoughtful and judicious considerations of the FCC — regardless of all political circumstances that may work to the contrary.

Cable Access As a Model

Cable access has been a serious and important mitigating response to the success of the cable television industry.

Every community, at every point in the renegotiation, strives to maintain this availability of public access.

Digital Television

The digital television migration will be no different.

Take 6 Mhz of bandwidth. With the advent of superior digital technologies, we find that there are choices. 6 Mhz can be devoted to an extremely high level of digital broadcast or the broadcaster can make trade-offs. They can broadcast 1 or 2 video transmissions of medium quality, and they can carve out the rest for commercial gain. They might provide this bandwidth for cellular expansion or they might expand this for "pay television." Either way, they are capitalizing on a **freely** given spectrum space.

It is this respondent's interpretation of the 1934 Act that all channels must respond to the public good. No channel may be subverted, solely for commercial gain — unless a commensurate amount of bandwidth and time is dedicated to the public interest on other channels. Further, we must avoid the process by which a station's public service is relegated to channels that are less watched. Such a process would weaken the station's ability to carry out the intent of the Act.

A visit to a local station — WBZ in Boston — recently acquired by CBS:

On February 29th, Dr. W. Curtiss Priest visited WBZ at 1170 Soldiers Field Rd., Boston, MA 02135

Access to the records was expeditious because of interest in the station's coverage of political events (it being the eve of the Presidential election.)

In the October 1 to December 31, 1999 period, the station had just three hours of

children's programming, provided by CBS, consisting of:

- o Anatole
- o Blaster's Universe
- o Rescue Heroes
- o Flying Rhino Junior High
- o New Tales from the Cryptkeeper
- o Mythic Warriors: Guardians of the Legend

The description of these shows, as provided to the FCC, made each and every one of these sound pertinent to the need for quality children's programming.

In that two made references to children's book awards, Dr. Priest talked Prof. Mercier, who has served on children's award committees and is Associate Director of Children's Literature at Simmons College. To better address the actual shows, they both watched the episodes aired on March 4th.

Anatole (the mouse) is based on a book by Eve Titus which received a Caldecott honor book award in 1957. Of the various shows, this one presented its characters in various family contexts. Prof. Mercier said this was unusual for children's books; often parents are despatched to leave children to their own adventures. Dr. Priest found the interplay of characters to be warm, thoughtful, and somewhat charming. Nonetheless, there were various themes of the episode that were bothersome. Anatole leaves his children with an uncle, Gaston. In the interplay amongst Gaston and the children, Gaston is made to look foolish as an adult. He "misunderstands" when Anatole mentions a 10 PM bedtime, saying, "I am always in bed by 10 PM." The children giggle at this point, placing them in a superior position. A minute later Gaston and the children are riding their bicycles (in France) and Gaston goes the wrong way. Again, the children take the upper hand. Only a while later, when one of the children claims to have done homework and Gaston notices otherwise, is Gaston portrayed as an observant parent. But, with regard to homework, the children all chime, "do we have to?" When the subject of health and exercise is briefly mentioned, Gaston says, "who said exercise is good for your health." So, various stereotypes are continued in the context of this show

1. Children are superior to their parents (a common theme across both television shows and television commercials in this era).
2. Learning (homework) is seen as some required evil rather than a positive activity of daily living.
3. Lack of exercise is excused.

Nonetheless, Prof. Mercier thought there were some distinctive pluses of Anatole. There was no gratuitous violence. There were two stories being told at the same time (one about the adventures of Anatole; the other about the children) and the ability for a viewer to follow a show constructed this way, helps children learn to follow such stories. There was 'literary parallelism' in the way the uncle becomes locked in the basement and the way Anatole and others get locked in a cage.

And, the moral of the story that "cheaters never prosper," while perhaps idealistic, does help affirm a 'good society.'

Blaster's Universe is based on a math game by that name. Here there are no parents, so there is no opportunity to portray family life. Instead, there are two, a girl and a boy as a team, who fight a villain who presents math puzzles. Dr. Priest found this show to be fundamentally disturbing. The team clearly, naturally excel in math. The foil in the story is a boy who plays pranks on his friends and only engages in math when he believes he is playing some kind of virtual game. The message of this subterfuge is that math is beyond kids like this, and only by 'candy coating it' will the child learn. The story writers are not to blame as much as is our society; the attitude that learning must be turned into a game to engage the learner runs deep in society's views about education and math.

Regardless, the show presented interesting math challenges and the dedication the boy/girl team showed in helping the prankster with learning math helps promote the goal of 'peer mentoring.'

Rescue Heros was, said Prof. Mercier, "preachy." Both this show, and the theme of Rhino Junior High were hyper-focussed on safety issues. The intent is clear: safety is good and a show that teaches safety will be considered good children's television. Prof. Mercier found the emphasis on safety was so heavy-handed as to make the show boring.

Regardless, the show demonstrated characters with a strong sense of teamwork and caring for each other. It is this kind of relational kindnesses that help a child see the value of caring for others.

The episode of Flying Rhino Junior High was about the visit of a fireman to the school and lectures about proper safety in school. The underlying message of the show is similar to that of Buffy the Vampire Slayer, that principals and teachers are controlling, preachy and buffoons and the students have to put up with this. Unfortunately, this depiction of our public education system rings true in many ways. But what are the effects of a children's show built around this premise? Perhaps children are permitted to laugh about it, thus giving them some release. Yet the show, in general, perpetuates the part of our educational system that many wish to improve.

If CBS' contribution to children's programming is confined to these six programs, we believe that much clearer evidence is needed of their merits. A clever writer can take almost any program on television and laud about its ability to, say, "improve social skills."

It is not that we insist on "blue ribbon standards," but we would like to see clear evidence that professionals involved with children's learning such as librarians, education faculty, and communications faculty are examining and shaping these few shows for their positive effect on children. While some of the CBS shows credited "educational consultants," it may be that such consultants are working too much inside the framework of the show and not given the opportunity to restructure the shows.

And, have children been asked their evaluative opinion? For over thirty years, Educational Products Information Exchange has found publishers of learning resources seldom ask for evaluations from teachers or students. And, recently, the National Academy of Television Arts and Sciences has launched a project called "Creating Critical Viewers." The CBS shows would benefit from learner-evaluations as well as the advice from professionals mentioned above.

We encourage the FCC to not only assure there is sufficient children's television but to put into place a process by which these shows can be evaluated and improved.

Children's Programming in 1997 versus 1999 at WBZ (CBS):

The most telling difference between these two years is that, perhaps due to the acquisition by CBS, WBZ's programming for children dropped by 50%. In September 30, 1997 there were six hours of programming, and in the October 1997 report there were only three hours of programming.

This suggests that mergers and acquisitions do what many suspect — reduce coverage to the lowest commitment possible.

Equal Opportunity Employment:

Due to changes in the law, the last entry that accounted for the employment by WBZ by gender, race, etc. was date May 27, 1997

Change due to CBS reporting:

The only significant reporting change (other than the number of children's hours) was the inclusion of the dollar value of the Public Service Announcement (PSA) programming. While WBZ include great detail on PSA programming, it was only in CBS reporting that the first quarter of 1999 was shown to represent \$93,700 in outlays. What was not shown was what percentage this amount was to the overall budget.

Outside of Programming:

No information was found in the files that accounted for WBZ or CBS's public activities outside of programming.

Letters to the Station:

Letters to the station were dutifully filed in folders by month and year. However, there was no record of any action or response to these letters.

For example, there was a woman who wrote twice to express her dismay at the kinds of morning news she was receiving and details about who was providing it.

While these letters were very heart-felt, there was no indication that the letters made

any impact. There were **no** responses to these letters in the file.

When the administrator for these files was asked about reply letters, the response was that these letters to the station might, or might not, be circulated in the appropriate divisions of the company. Whether anyone responded to these letters would be up to the individuals to whom the letters were first directed. In any case, no response was filed with the letters as part of the public record.

Immediate Recommendation to the FCC:

All letters to publicly underwritten stations **should** be responded to and all such responses should be included in the public record.

Summary comments by the Center for Information, Technology & Society:

1. All channels of public awarded spectrum space should serve the public interest
2. Each and every digital channel (and sub-channel) should serve the public interest. Shifting of materials to lesser watched channels or transmissions should not be permitted.
3. Stations should clearly indicate how they are adapting to public needs by not only receiving letters from the public, but also indicating how the "consumer voice" of the public is effecting programming decisions.
4. Stations and/or networks should work more closely with resources that understand the value of forms of children's education. Such clearinghouse resources might be the Center for the Study of Children's Literature at Simmons College, the Educational Products Information Exchange of Hampton Bays, NY, the Communications Department of Emerson College, and the American Teachers Association.
5. Cross ties should be formed between local Public Cable Access organizations and major television networks. Materials produced by Cable Access that have high merit, should be carried by major networks. This cross-fertilization will help reduce the gap between major network's need to pander to "American Interests" and shows that have sufficient local content and quality to attract viewers.
6. In general, the FCC should carefully study the programming attitudes and values of systems in Canada, the U.K. and France, to better understand, by "cross-country" comparison, what alternatives there are to the "American formula" for appealing to the Public.
7. The FCC should, within whatever 1st Amendment restrictions exist, attempt to shape American Television into a positive, ethically-based, humanizing, civilizing experience for its viewers. Parents of children of many ages would be pleased to exchange the V-chip for the opportunity to engage with superior programming that communicates community, interrelational values, and an aspiration for learning. The separation of church and state should not be interpreted as a separation of redeeming culture and state. Those who would close the FCC should be reminded

that dehumanizing economists are those who "know the price of everything; and the value of nothing." The market process is no guarantee of a society worth living in; the role of nonprofits is particularly important during eras of transition as they often embody goals, virtues, and aspirations that can never be purchased and are never for sale.

Perhaps if stations and networks were required to write descriptive materials about the redeeming aspects of all of its programming (as they do already to justify the redeeming aspects of their three hours of children's television), this would be a step in the right direction. Such a process would, hopefully, reveal to reviewers both inside and outside of television firms what news and programs are inspiring and empowering and what news and programs are simply pandering to base, debasing interests as epitomized by the presence of sex and violence without meaningful context.

8. The FCC should contract for studies of the effects of media concentration. As found above, WBZ as an independent station carried twice the level of children's programming prior to its acquisition by CBS. Under increased pressures from competition from various sources, including cable and satellite, there may be a "rush to the bottom" in terms of meeting the goals of "must carry" and other PSA goals voiced in statute and the regulations by the FCC.

In that there are both positive and negative effects of media concentration, the FCC should not expect that any one study can be the basis for policy. It is well known that such studies vary as widely as the implicit agendas embodied in firms and institutions that conduct such studies. These differences are not to be avoided, but rather used to help illuminate the issues surrounding the effects of communication; the effects of the for-profit drive; and the voices of those who see defects in the current (and future) of analog and digital television. Only with open discussion (such as this NOI) and government-provided resources for such studies can good television for a better society be assured. Corporate interests are always well funded; in contrast, those that would or can speak to non-corporate interests are often teetering on the edge of financial insolvency. And while insolvency is a symptom in the "business world" that this entity should go out of business; insolvency in the not for profit sector can often occur simply by the process where corporations co-opt government's role in funding activities — activities that help ensure that societal losses, damages, or lost opportunities due to "market-failure," are not allowed to happen (see Appendix A).

Respectfully submitted,

Dr. W. Curtiss Priest, Director

Appendix A

Inherent causes of "market-failure" associated with Information and Communication

For one discussion on market-failure in the provision of communication and information see:

www.eff.org/pub/Groups/CITS/Reports/cits_nii_framework_ota.report — especially these sections:

- 2.2 Market-Failure Related Characteristics of Information
 - 2.1 Market Related Characteristics of Information as a Commodity
 - 2.1.1 Intrinsic Co-production
 - 2.1.2 Time Constrained Consumption of Information
 - 2.1.3 High Investment to Reproduction Cost Ratios of Information
 - 2.1.4 Relevance of Information More Variable Across Consumers
 - 2.2 Market-Failure Related Characteristics of Information
 - 2.2.1 Public Good Characteristics of Information
 - 2.2.1.1 Inappropriability
 - 2.2.1.2 Non-depletability
 - 2.2.2 Externalities (expected and unintended)
 - 2.2.3 Indivisibilities (of supply)
 - 2.2.4 Economies of Scale and Scope (of production)
 - 2.2.5 Inherent Uncertainty and Risk in Information Production
 - 2.2.6 Information/Knowledge About the Information
 - 2.2.7 Intangibility (of benefits or values)
 - 2.2.8 Transaction Costs and Information
 - 2.2.9 Equity/Distribution Considerations (related to Universal Service)
 - 2.2.10 Network Externalities
 - 2.3 Non-market Related Characteristics of Information
 - 2.3.1 High Intrinsic Relationship to Human Welfare
 - 2.3.2 High Intrinsic Relationship to Issues of Freedom and Privacy